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| SERIAL NUMBER | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
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| 07/783,124 | 10/28/91 | JONES | D 150/P53871 |

EXAMINER
FRIEDMAN, C

| ART UNIT | PAPER NUMBER |
|---|---|
| 1303 | 5 |

DATE MAILED: 09/24/92

FLEIT, JACOBSON, COHN, PRICE,
HOLMAN & STERN
400 SEVENTH ST., N.W.
WASHINGTON, DC 20004

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

☑ This application has been examined ☑ Responsive to communication filed on 12-30-91 (Prior Art) ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), ____ days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

**Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:**

1. ☐ Notice of References Cited by Examiner, PTO-892.
2. ☑ Notice re Patent Drawing, PTO-948.
3. ☑ Notice of Art Cited by Applicant, PTO-1449.
4. ☐ Notice of Informal Patent Application, Form PTO-152.
5. ☐ Information on How to Effect Drawing Changes, PTO-1474.
6. ☑ Interview Summary

**Part II SUMMARY OF ACTION**

1. ☑ Claims 1-11 are pending in the application.
   Of the above, claims 10 and 11 are withdrawn from consideration.
2. ☐ Claims ____ have been cancelled.
3. ☑ Claims 1-4 are allowed.
4. ☑ Claims 5-7 are rejected.
5. ☑ Claims 8 and 9 are objected to.
6. ☐ Claims ____ are subject to restriction or election requirement.
7. ☑ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
8. ☐ Formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on ____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable. ☐ not acceptable (see explanation or Notice re Patent Drawing, PTO-948).
10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on ____ has (have) been ☐ approved by the examiner. ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed on ____, has been ☐ approved. ☐ disapproved (see explanation).
12. ☐ Acknowledgment is made of the claim for priority under U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. ____; filed on ____.
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. ☐ Other

**EXAMINER'S ACTION**

PTOL-326 (Rev. 9-89)

Restriction to one of the following inventions is required under 35 U.S.C. § 121:

I. Claims 1-9, drawn to a fluidized bed coating apparatus, classified in Class 118, subclass 303.

II. Claims 10-11, drawn to a method for coating in a fluidized bed, classified in Class 427, subclass 213.

The inventions are distinct, each from the other because of the following reasons:

Inventions Group II and Group I are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (M.P.E.P. § 806.05(e)). In this case the apparatus as claimed can be used to practice another and materially different process such as reacting or heat treating solid particles with a gas.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

During a telephone conversation with Mr. Michael R. Slobasky

on August 4, 1992 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-9. Affirmation of this election must be made by applicant in responding to this Office action. Claims 10-11 are withdrawn from further consideration by the Examiner, 37 C.F.R. § 1.142(b), as being drawn to a non-elected invention.

In the specification, at page 3, line 2, the Patent number must be corrected and the duplicate language beginning at page 13, line 11 must be deleted.

The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

> A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
>
> Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claims 5-7 are rejected under 35 U.S.C. § 103 as being unpatentable over Larson et al.

Larson teaches an apparatus for spraying solids that are suspended in an air stream, i.e. a fluidized bed. Larson teaches that the spray nozzle is surrounded by a venturi 32, specifically the entrance cone 35 and the throat region 37, to reduce pressure drop in developing an air flow to support the particles to be coated. It is noted that this venturi is structurally equivalent to the instant shielding means.

In view of the Jepson format of the claim, in which a well-known apparatus is improved, it would have been obvious to modify the fluidized bed structure of Larson to input to it the well-known features instantly claimed.

Conversely, it would have been obvious to modify the well-known fluidized beds, admitted by applicant's Jepson claims, with the venturi of Larson shielding the spray nozzle because Larson teaches that such a venturi will reduce pressure drop.

Claims 1-4 are allowable.

Claims 8 and 9 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The instantly claimed feature that the shielding means is a cylindrical partition defines over the art of record and, in

particular, the venturi of Larson.

Any inquiry concerning this communication should be directed to Charles Friedman at telephone number (703) 308-2052.

eqg

Friedman/ad
September 17, 1992

W. GARY JONES
SUPERVISORY PATENT EXAMINER
GROUP 1300

9/23/92